

1 A bill to be entitled

2 An act amending s.319.24(2),(4),(5) and 319.241 F.S. to  
3 permit the holder of a judgment lien on a motor vehicle,  
4 mobile home, or vessel to request the Department of Highway  
5 Safety and Motor Vehicles to note its judgment lien on the  
6 motor vehicle's, mobile home's, or vessel's certificate of  
7 title; to permit the owner to demand a satisfaction of lien  
8 from the lienholder when the lien is satisfied or lapsed;  
9 to permit the owner to apply to the department for removal  
10 of the lien that has been filed with the department or  
11 noted on the certificate of title for a period of 5 years  
12 unless a second judgment certificate lien has been filed,  
13 in which case the department shall remove notice of the  
14 first lien and note the second lien at the end of all noted  
15 liens; adding subsection (5) to s. 55.205 F.S. to clarify  
16 the effect of a certificate of title on a judgment lien;  
17 and informing a judgment lien holder that it may obtain a  
18 court order instructing the department to note its lien on  
19 the certificate of title through proceedings supplementary;  
20 renumbering s. 59.29(6) F.S. as s. 59.29(6)(a) F.S. and  
21 adding subsection 59.29(6)(b) making clear that on  
22 presentation of a valid judgment lien certificate in  
23 proceedings supplementary the court shall issue such order;  
24 amending s.55.202(2) F.S. expanding the reach of a judgment  
25 lien to include all payment intangibles and accounts of a  
26 judgment debtor located in this state; and adding

RM:6724080:1

27 subsection 55.205(6) making clear that a judgment lien may  
28 be enforced only through judicial process, and may not be  
29 enforced through self-help repossession or replevin without  
30 the express consent of the judgment debtor.

31 Be it enacted by the Legislature of the State of Florida:

32 Section 1. This act may be cited as the "Judgment Lien  
33 Improvement Act."

34 Section 2. Subsection 319.24(2) F.S. is amended to read:

35 (2) A duly authorized person shall sign the original certificate of title and  
36 each corrected certificate and, if there are no liens or encumbrances on the motor  
37 vehicle or mobile home, as shown in the records of the department or as shown in  
38 the application, shall deliver the certificate to the applicant or to another person as  
39 directed by the applicant or person, agent, or attorney submitting such application.  
40 The motor vehicle dealer license number must be submitted to the department  
41 when a dealer applies for or receives a duplicate title. The current odometer  
42 reading must be submitted on an application for a duplicate title. If there are one  
43 or more liens or encumbrances on the motor vehicle or mobile home, the  
44 certificate shall be delivered by the department to the first lienholder as shown by  
45 department records or to the owner as indicated in the notice of lien filed by the  
46 first lienholder pursuant to s. 319.27 . If the notice of lien filed by the first  
47 lienholder indicates that the certificate should be delivered to the first lienholder,  
48 the department shall deliver to the first lienholder, along with the certificate, a  
49 form to be subsequently used by the lienholder as a satisfaction. If the notice of

50 lien filed by the first lienholder directs the certificate of title to be delivered to the  
51 owner, then, upon delivery of the certificate of title by the department to the  
52 owner, the department shall deliver to the first lienholder confirmation of the  
53 receipt of the notice of lien and the date the certificate of title was issued to the  
54 owner at the owner's address shown on the notice of lien and a form to be  
55 subsequently used by the lienholder as a satisfaction. If the application for  
56 certificate shows the name of a first lienholder different from the name of the first  
57 lienholder as shown by the records of the department, or if the application does  
58 not show the name of a judgment lien holder as shown by the records of the  
59 department, the certificate shall not be issued to any person until after all parties  
60 who appear to hold a lien and the applicant for the certificate have been notified  
61 of the conflict in writing by the department by certified mail. If the parties do not  
62 amicably resolve the conflict within 10 days from the date such notice was  
63 mailed, then the department shall serve notice in writing by certified mail on all  
64 persons appearing to hold liens on that particular vehicle, including the applicant  
65 for the certificate, to show cause within 15 days from the date the notice is mailed  
66 why it should not issue and deliver the certificate to the person indicated in the  
67 notice of lien filed by the lienholder whose name appears in the application as the  
68 first lienholder without showing any lien or liens as outstanding other than those  
69 appearing in the application or those which may have been filed subsequent to the  
70 filing of the application for the certificate. If, within the 15-day period, any  
71 person other than the lienholder shown in the application or a party filing a

RM:6724080:1

72 subsequent lien, in answer to such notice to show cause, appears in person or by a  
73 representative, or responds in writing, and files a written statement under oath that  
74 his or her lien on that particular vehicle is still outstanding, the department shall  
75 not issue the certificate to anyone until after such conflict has been settled by the  
76 lien claimants involved or by a court of competent jurisdiction. If the conflict is  
77 not settled amicably within 10 days of the final date for filing an answer to the  
78 notice to show cause, the complaining party shall have 10 days to obtain a ruling,  
79 or a stay order, from a court of competent jurisdiction; if no ruling or stay order is  
80 issued and served on the department within the 10-day period, it shall issue the  
81 certificate showing no liens except those shown in the application or thereafter  
82 filed to the original applicant if there are no liens shown in the application and  
83 none are thereafter filed, or to the person indicated in the notice of lien filed by  
84 the lienholder whose name appears in the application as the first lienholder if  
85 there are liens shown in the application or thereafter filed. A duplicate certificate  
86 or corrected certificate shall only show such lien or liens as were shown in the  
87 application and subsequently filed liens that may be outstanding.

88 Section 2. Subsection 319.24(4) Florida Statutes is  
89 amended to read: (4) If the owner of the motor vehicle or mobile home,  
90 as shown on the title certificate, or the director of the state child support  
91 enforcement program, or the director's designee, desires to place a  
92 second or subsequent lien or encumbrance against the motor vehicle or  
93 mobile home when the title certificate is in the possession of the first

94 lienholder, the owner shall send a written request to the first lienholder by  
95 certified mail, and such first lienholder shall forward the certificate to the  
96 department for endorsement. If the title certificate is in the possession of  
97 the owner, the owner shall forward the certificate to the department for  
98 endorsement. If the holder of a judgment lien on personal property of the  
99 owner acquired under s. 55.202(2) Florida Statutes desires to place a lien  
100 on the motor vehicle, mobile home, or vessel, the judgment lien holder  
101 shall send a written request to the department together with a copy of the  
102 lien holder's valid judgment lien certificate. The department shall add the  
103 name of the judgment lien holder to the records of the department. The  
104 judgment lien holder shall also send a written request to the person in  
105 possession of the title certificate by certified mail and that person shall  
106 forward the certificate to the department for endorsement. The  
107 department shall return the certificate to either the first lienholder or to the  
108 owner, as indicated in the notice of lien filed by the first lienholder, after  
109 endorsing the second or subsequent lien on the certificate and on the  
110 duplicate. If the first lienholder or owner fails, neglects, or refuses to  
111 forward the certificate of title to the department within 10 days from the  
112 date of the owner's, the judgment lien holder, or the director's or  
113 designee's request, the department, on the written request of the  
114 subsequent lienholder or an assignee thereof, shall demand of the first  
115 lienholder or owner the return of such certificate for the notation of the

RM.6724080.1

116 second or subsequent lien or encumbrance. If the first lien holder or  
117 owner fails, neglects, or refuses to return the certificate to the department  
118 as requested, the department shall void the certificate of title and issue a  
119 replacement certificate showing the notation of the subsequent lien or  
120 encumbrance.

121 Section 3. Subsections 319.24(5)(a) and (b) Florida  
122 Statutes shall be amended to read:

123 (5)(a) Upon satisfaction of any first lien, judgment lien or encumbrance  
124 recorded at the department, or upon lapse of a judgment lien. the owner  
125 of the motor vehicle or mobile home, as shown on the title certificate, or  
126 the person satisfying the lien shall be entitled to demand and receive from  
127 the lienholder a satisfaction of the lien. If the lienholder, upon  
128 satisfaction of the lien and upon demand, fails or refuses to furnish a  
129 satisfaction thereof within 30 days after demand, he or she shall be held  
130 liable for all costs, damages, and expenses, including reasonable  
131 attorney's fees, lawfully incurred by the titled owner or person satisfying  
132 the lien in any suit brought in this state for cancellation of the lien. A  
133 motor vehicle dealer acquiring ownership of a motor vehicle with an  
134 outstanding purchase money lien, shall pay and satisfy the outstanding  
135 lien within 10 working days of acquiring ownership. The lienholder  
136 receiving final payment as defined in s. 674.215 shall mail or otherwise  
137 deliver a lien satisfaction and the certificate of title indicating the

138 satisfaction within 10 working days of receipt of such final payment or  
139 notify the person satisfying the lien that the title is not available within 10  
140 working days of receipt of such final payment. If the lienholder is unable  
141 to provide the certificate of title and notifies the person of such, the  
142 lienholder shall provide a lien satisfaction and shall be responsible for the  
143 cost of a duplicate title, including fast title charges as provided in s.  
144 319.323. The provisions of this paragraph shall not apply to electronic  
145 transactions pursuant to subsection (9).

146 (b) Following satisfaction of a lien, or upon satisfaction or lapse of a  
147 judgment lien, the lienholder shall enter a satisfaction thereof in the space  
148 provided on the face of the certificate of title. If the certificate of title was  
149 retained by the owner, the owner shall, within 5 days of the satisfaction of  
150 a lien, deliver the certificate of title to the lienholder and the lienholder  
151 shall enter a satisfaction thereof in the space provided on the face of the  
152 certificate of title. If there are no subsequent liens shown thereon, the  
153 certificate shall be delivered by the lienholder to the person satisfying the  
154 lien or encumbrance and an executed satisfaction on a form provided by  
155 the department shall be forwarded to the department by the lienholder  
156 within 10 days of satisfaction of the lien.

157 Section 4. Section 319.241 Florida Statutes shall be amended to read:

158 The owner of a motor vehicle or mobile home upon which a lien has been filed with the  
159 department or noted upon a certificate of title for a period of 5 years may apply to the

160 department in writing for such lien to be removed from the department files or from  
161 the certificate of title. The application shall be accompanied by evidence satisfactory  
162 to the department that the applicant has notified the lienholder by certified mail, not  
163 less than 20 days prior to the date of the application, of his or her intention to apply to  
164 the department for removal of the lien. Ten days after receipt of the application, the  
165 department may remove the lien from its files or from the certificate of title, as the  
166 case may be, if no statement in writing protesting removal of the lien is received by  
167 the department from the lienholder within the 10-day period. If, however, the  
168 lienholder files with the department within the 10-day period a written statement that  
169 the lien is still outstanding, or that a second judgment lien certificate has been filed  
170 with the Department of State, the department shall not remove the lien until the  
171 lienholder presents a satisfaction of lien to the department. If a second judgment lien  
172 certificate has been filed with the Department of State, the department shall remove  
173 the notice of the first judgment lien certificate and note at the end of all noted liens  
174 notation of the second judgment lien certificate. Ten days after the receipt of an  
175 application for a derelict motor vehicle certificate and notification to the lienholder,  
176 the department may remove the lien from the derelict motor vehicle record if a  
177 written statement protesting removal of the lien is not received by the department  
178 from the lienholder within the 10-day period.

179 Section 5. Subsection (5) shall be added to Section 55.205 Florida Statutes to Read:  
180 (5)(a) Motor Vehicles, Mobile Homes and Vessels. If the personal property of the  
181 judgment debtor, to the extent not exempt from execution, includes a motor vehicle,  
182 mobile home, or vessel for which a Florida certificate of title has been issued, a  
183 judgment lien acquired under this section on such property not yet noted on the  
184 certificate of title is valid and enforceable against the judgment debtor, but such a  
185 judgment lien is not enforceable against creditors or subsequent purchasers of such

186 property for valuable consideration whose interests have been noted on the certificate  
187 of title as provided in s. 319.27, Florida Statutes.

188 (b) A judgment lien holder may obtain an order instructing the Department of Highway  
189 Safety and Motor Vehicles to note the lien on the certificate of title through a court of  
190 competent jurisdiction conducting Proceedings Supplementary under s. 56.29(6)(b)  
191 Florida Statutes.

192 Section 6. Subsection 56.29(6), Florida Statutes, shall be renumbered 56.29(a), and  
193 Subsection 56.29(6)(b) shall be added to read:

194 (b) If the personal property of the judgment debtor includes a motor vehicle, a mobile  
195 home, or a vessel that is to any extend nonexempt from execution and for which a  
196 Florida certificate of title has been issued, on presentation of a copy of a valid  
197 judgment lien certificate acquired under s. 55.202 Florida Statutes, the court shall  
198 order the Department of Highway Safety and Motor Vehicles to note the lien of the  
199 judgment creditor on the certificate of title and in the records of the department.

200 Section 7. Subsection 55.202(2), Florida Statutes, shall be amended to read:

201 (2) A judgment lien may be acquired on a judgment debtor's interest in all personal  
202 property in this state subject to execution under s. 56.061, as well as all payment  
203 intangibles and accounts as defined in s. 679.1021, Florida Statutes, of a judgment  
204 debtor that is located in this state as defined in s.679.3071, Florida Statutes, other  
205 than fixtures, money, negotiable instruments, and mortgages.

206 Section 8. Subsection (6) shall be added to Section 55.205 to read:

207 A judgment lien acquired under s. 55.202, Florida Statutes, is to be enforced only  
208 through judicial process such as attachment (Ch. 76), execution (Ch 56), garnishment  
209 (Ch77) charging order (ss. 605.503, 620.1703, and 620.8504), and proceedings  
210 supplementary to execution (s. 56.29). A judgment lien may not be enforced through  
211 self-help repossession or replevin without the express consent of the judgment debtor.